

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

STEVEN ALLEN BROWN,

Case No. 1:19-cv-01796-DAD

Petitioner,

DEATH PENALTY CASE

V.

ORDER GRANTING APPLICATION FOR
APPOINTMENT OF COUNSEL
(Doc. No. 1)

RONALD DAVIS, Warden of California State
Prison at San Quentin,

**ORDER GRANTING APPLICATION TO
PROCEED WITHOUT PREPAYMENT OF
FEES
(Doc. No. 2)**

Respondent.

ORDER DENYING WITHOUT PREJUDICE
APPLICATION FOR STAY OF
EXECUTION
(Doc. No. 1)

On December 23, 2019, petitioner Steven Allen Brown, a state prisoner facing capital punishment, commenced this action pursuant to 28 U.S.C. § 2254 by filing requests for appointment of counsel to represent him and stay of execution. (Doc. No. 1.) Therein, petitioner supports the requests and his separate motion to proceed *in forma pauperis* filed on his behalf by Kelly Culshaw, Assistant Federal Defender, (Doc. No. 2), by attesting to his capital conviction and sentence following direct review and state collateral proceedings, his belief in entitlement to redress, his need for appointed counsel and preference for re-appointment of state appellate and post-conviction counsel, and his indigence.

1 Section 3599a)(2) of Title 18 of the United States Code provides for the appointment of
2 one or more attorneys to represent an indigent person proceeding under 28 U.S.C. § 2254 to vacate
3 a death sentence. Rule 191(c) of the Local Rules of the United States District Court for the Eastern
4 District of California also provides for the appointment of counsel for indigent capital habeas
5 petitioners. Under this rule, selection of counsel is made from a panel of attorneys qualified for
6 appointment in death penalty cases and certified by a selection board appointed by the Chief
7 Judge. Based on petitioner's submissions, he is entitled to appointment of counsel under 18
8 U.S.C. § 3599(a)(2).

9 Section 2251(a)(3) of Title 28 of the United States Code provides for grant of stay of
10 execution once federal jurisdiction is invoked by a request for appointment of counsel pursuant
11 to 18 U.S.C. § 3599(a). Rule 191(g)(1-2) of the Local Rules also provides for stay of execution
12 pending appointment of counsel and final disposition. Based on the petitioner's submissions, an
13 order granting a stay of execution is unnecessary at this time because no execution date has been
14 set.

15 Rule 3(a) of the Rules Governing § 2254 Cases in the United States District Courts provides
16 that a petitioner seeking *in forma pauperis* status shall file an affidavit of assets as required by 28
17 U.S.C. § 1915. Rule 3(a) also requires a certificate from the prison stating the amount on deposit
18 in the petitioner's accounts. Based on petitioner's submissions, he has complied with the
19 requirements of 28 U.S.C. § 1915 and Rule 3(a). (See Doc. Nos. 1 & 5.) He is entitled to proceed
20 *in forma pauperis*.

21 Accordingly,

- 22 1. Petitioner's application for appointment of counsel is granted. The matter is
23 referred to the Selection Board for the Eastern District of California for
24 recommendation of suitable counsel.
- 25 2. Petitioner's application to proceed *in forma pauperis* is granted.

26 ////

27 ////

28 ////

3. Petitioner's request for stay of execution is denied without prejudice in light of the fact that no execution date has been set.

IT IS SO ORDERED.

Dated: January 12, 2020

Dale A. Troyd